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## Woolsack 1967 volume 5 number 2

University of San Diego School of Law Student Bar Association

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# The WOOLPACK



VOLUME 5, NUMBER 2

UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

NOVEMBER 1967

## DRAFT CHANGE REVIEWED -

### New Teeth in Law Aid Teeth, Not Law

The training of those who would lead our nation by interpreting the law by which we live is not critical to the welfare of our nation.

This is the paradox which recent draft legislation seems to imply.

Deferments, previously granted to students on the basis of good standing in graduate schools, will be curtailed due to an inordinate number of graduate students who have escaped military service.

Pursuant to the new legislation, a National Manpower Resources board will be set up to work in conjunction with the Selective Service Boards and the National Security Council. The combined function of these groups will be to identify those disciplines, occupations and professions which are critical to the national interest. Deferments for graduate study will then be based on national interest. Defer-

ments for graduate study will then be granted on the recommendations of this combined board. It would seem, according to the proposals, that the medical and dental professions, will be the only graduate fields deferred.

#### Deferments

Deferments will be given to law students who, as of October 1, 1967, were satisfactorily pursuing a full-time course of study leading to a first degree in law. Deferments for second and third year law students will continue until they receive their degrees. Those students who plan to seek advanced degrees in law will be given one additional year of deferment for a Masters, and a total of five years for a Masters and a Doctorate. However, first year students, enrolled as of October 1, 1967, will be given only one year deferment for post-graduate study.

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### Woolsack Staff Chosen



Woolsack Staff, working Hard or Hardly Working? Left to Right, Richard Trost, Managing Editor, Richard Prochazka, Associate Editor - Joel Dwork Feature Editor - Gary Lane, Staff Writer, Sitting Left to Right - Chris Lee, Editor in Chief - Kent Levis, News Editor.

### Moot Court Team To Compete in L.A.

The Appellate Moot Court Board has appointed the law school's first National Moot Court team consisting of Richard Prochazka, Captain, Bill Dysart and Lynn Willhite, alternates. The team will meet Loyola Law School in the first round of argument on November 16th in Los Angeles.

This year's problem deals with an accountant's liability under Sections 10(b) and 18(a) of the Exchange Act of 1934 together with 11(a) of the Securities Act of 1933. The facts basically involve an accountant's certification of the financial statements of a company which were filed with the S.E.C. It later appears that the company

is bankrupt and the financial statements have grossly overstated the company's financial position. Issues point to the possibility of the accountant's negligence, or lack thereof, in certifying the statements.

The team, in conjunction with the Board, has devoted many hours of research in developing a brief, answering this complicated problem. The Board additionally has been most attentive to the general procedure involved and its thoroughness will greatly assist those Boards to follow. The team should be congratulated on its splendid efforts in representing our law school in the first of such activities.

### Vietnam Roasted

by Chris Lee

The Law School received its first taste of participating controversy recently with the appearance of Professor Harrop Freeman. The discussion centered on the possibility of negotiation of the current Vietnamese conflict. The professor, who is currently a participating consultant at the Center for the Study of Democratic Institutions, spoke to an audience of 120 in More Hall.

Introduced by Professor Kerig, Professor Freeman viewed the short history of that embattled country and gave a speculative analysis as to the future of the nation. The good professor prefaced his remarks by listing his sources; among these were: Ramparts Magazine and the Students for the Democratic Society.

Armed with these sources of information, the professor began his speech by relating the historical context of the present war in which, according to Professor Freeman, former President Diem failed to hold the elections in 1956, thus forcing the Viet Cong to revolt.

Professor Freeman recited the current conditions of deterioration in South Vietnam as he viewed it. He claimed the South Vietnamese armed forces were the poorest in the world and compared this to the high morale at present in the Viet Cong armies.

The central theme of the discussion was the professor's emphasis on negotiation. His speech concluded with his expression of apprehension that there would be no negotiated settlement in that area of the world for approximately two years. This situation will continue, he explained, until United States leaders give serious consideration to negotiation and not mere attention to useless verbiage for the benefit of the American public. The speech was followed by a brief question and answer period.

### Beverly Rubens To Speak At Law School

P.A.D. Legal Fraternity and the Law Forum has arranged to have Miss Beverly Rubens address the student body on the topic of Bar Examinations. The address will be oriented to proper presentation, form, and approach in answering bar exam questions.

The address is scheduled for Friday evening Nov. 17, 7:30 p.m. Moore Hall.

Miss Rubens is well known for her legal outlines. In addition to being a practicing attorney, she has established her own Law School and conducts a bar review course which emphasizes writing methods and techniques.

## Dean Clarifies Exam Procedure

By Dean Joseph A. Sinclitico, Jr.

I have been asked to explain the new system of examinations which will be put into effect with the first semester examinations of the current academic year.

The examinations for the freshmen will be of a different type than those for the upperclassmen (students in classes other than the first year).

#### FIRST YEAR STUDENTS

##### - A. (Day Division)

These students will be examined in five subjects - Contracts, Torts, Property, Procedure, and Criminal Law. Each instructor will submit to me several questions for his course. I will prepare an examination for each session consisting of several questions. For example: On the first day of the examination, which could be either three or four hours, the examination might consist of the following: Question 1, Contracts; question 2, Property; question 3, Procedure; question 4, Contracts.

##### - B. (Evening Division)

Examinations for the Evening Division students will be made up in the same way except that the examination will be made up from three subjects only - Contracts, Torts and Property.

The number of sessions for the first year, both divisions, has not been determined. This will depend largely upon the number of questions submitted by each instructor for their individual course and the number of examination questions in a session.

It should be noted that the first year students will have a mixed subject examination but this does not involve, and I emphasize this, answering one question which includes more than one subject. Caveat: The individual student might err by answering a question as a Property question which was submitted by the Contract examiner. Therefore the student should be careful to ascertain

which subject is involved. In most cases he will have no difficulty because the questions will not be ambiguous as to subject. First year Day students will be tested in day sessions; first year Evening students will be tested in evening sessions.

#### UPPERCLASSMEN

##### (Day and Evening Division)

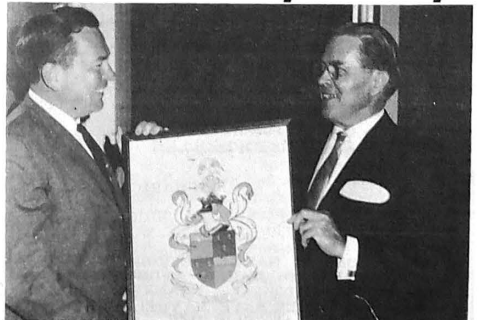
Upperclassmen's examinations will be administered on a "blind basis." This will involve scheduling of an examination in a given subject on a given day without prior knowledge of the subject by the student. There will be no mixed questions. An upperclassman who sits for an examination on a given day will have to answer only in one subject. Examinations for upperclassmen, both Divisions, will be given jointly and scheduled in the evening.

In the event that a student is faced with being examined on the same day in two subjects, he will be permitted to elect in which subject he wishes to be examined.\* At the same time he will certify to the Assistant Dean that he had a conflict and that he will take the examination in the other subject at a later date to be designated by the Assistant Dean. A form will be available at the examination room which should be completed and turned in to the staff.

It is recognized that on a given day a student might come to the law school prepared to sit for an examination and find that no examination is offered on that day which involves him. This is one of the problems attending this type of examination. In order to minimize any possible confusion arising from this, the examination to be held on a given day will be announced in the late afternoon by posting a list of examination subjects for that day on the bulletin board. I

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### P.A.D. Honors City Attorney



City Attorney Ed Butler (on left) is presented with plaque by Attorney J. Irwin, as P.A.D. Legal Fraternity honors Butler for service to the community.

## WOOLSACK

## EDITORIAL

The proverbial, and off-quoted phrase "this is a government of law, not off men" has lately produced very active and obnoxious detractors.

The American society which was conceived with the Declaration of Independence and buttressed by the Constitution is dependent upon this concept. Change, whether legal, social, or political is adequately provided for, within the American concept of freedom.

Yet there is a vocal minority which produces much of the national headline material and is apparently determined to change the traditional concept from the rule of law to rule by the minority. It is recognized that abuse of the rules of the present legal and political system must be guarded against jealously. This task is presently being dealt with capably by our court system and police agencies.

The idea of rule by the minority is nothing new to civilization. Nations that do not recognize the rule of law or the freedom of the individual are constantly reverting this principle.

There are present today, some called "voices of dissent" which are constantly seeking to disrupt organized society. This group seems to have rejected the idea of law and the public peace. They willingly aid enemies of this country, (formally known as treason); disrupt the orderly processing of draftees (non-violent in theory, but riotous in practice); beat up and hospitalize college newspaper editors with whom they disagree (Black Power), and generally make a mockery of any law which they happen to consider to be hindering their aims and objectives.

The theory of nonviolence has given birth to the license of "dissent". This obnoxious offspring not only disrespects the law of the community but angrily attacks the "thin blue line" which separates urban civilization from anarchy. Everytime an enforcement agency attempts to maintain public order against these "voices of dissent" the cry of "police brutality" is echoed. Positive proof of violence, initiated and carried out by the dissenters, is either accepted as necessary or totally ignored as non-existent.

Society at one time tolerated such public disorder out of a collective guilt complex. Now, however, with increased legislation, new court decisions, and enlightened law enforcement agencies such tactics of civil disorder must end. The idea that a vocal minority may be allowed to control any social situation merely by breaking laws which the rest of society chooses to obey, has its roots in the history of violent revolution. Such tactics not only tend to degenerate the social order but they build upon themselves. What today is considered extreme, is tomorrow merely part of the "game of lawbreaking." Anti-war dissent led to sending blood to the Viet Cong; peaceful marching one day, gave way to hysterical assault on the nation's Pentagon the next.

The marginal line separating dissent from anarchy has too often been crossed. It's time to enforce those laws which are on the books to curb such anti social activities. Nothing new is needed, except possibly some new lumbar vertebrae in the nation's prosecuting agencies.

C. A. L.

## The WOOLSACK

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REFLECTIONS  
OF A  
TRANSFER  
STUDENT

By Joel Dwork

On the premise that constructive criticism can serve a useful purpose I present this article. Bearing in mind that it is the duty of an instructor to prepare his students to serve the profession I continue.

Our law school paper, it would seem, could legitimately be concerned with the attitude of those who comprise the student body as well as with the instruction received. In regards to this I would like to know the position of the school toward the admission of zombies; I couldn't find anything in the bulletin. I'd have to check a pulse rate to see if the breath of some of these students would frost a glass before I would believe they were alive. I know they talk; I hear the conversation all the time. It tends to be exclusively limited to surfing and new cars, with occasional interruptions for the latest sports reports. Remarkably what it lacks is discussion of the law. I am convinced that these conversations are programmed into students and are elicited on response to the proper motivation. If our library reflected student concern we would receive *Sports Illustrated* and *Road and Track* magazines.

Let my statements not be construed to mean that being versatile is not important. Certainly, however, if there is a challenging, exciting field of study it must be that of law, and at least at times you might expect to hear a discussion of the latest court decisions instead of the latest "hot rods". Then again if we examine further we might find that an element essential to the development of an interest in law is missing. Perhaps there is a communications breakdown and the students just aren't getting the message, and perhaps it is their absolute duty to inform their instructors of this situation.

## How To Do It

The class belongs to the instructor and unwarranted student participation in the classroom should be minimal. This is where a real interest can be developed and in many cases time is wasted on useless repetition or valueless student discussion, which makes for an atmosphere about as exciting as watching grass grow. Sometimes questions are needed because uncertainty or vagueness in a statement requires further explanation, some questions do serve a useful function. Superfluous argument, however, causes the student to lose interest in what is being said and he may miss an occasional important point when it is made. A lecture that is interesting, informative, and well delivered should not lose its effect by having students raise meaningless points, which unfortunately often receive too much attention. It is suggested that discussion of these points be left for after, rather than during, class and if a question per-

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## S.B.A. REPORT

By Mike Thorsnes

I thought I would begin this month's column by introducing the other members of the Board of Directors. This year's vice-president is Howard Halm, case and comment editor of the Law Review and a UCLA graduate. The secretarial services are being provided by John Green, from San Diego State, who in his spare time serves as exchequer of Phi Delta Phi. Our treasurer, Rick Santwier, from USF, serves during the day as an auditor for State Compensation. The representatives are Bob Guskon, fourth year night from Pitt, also an associate editor of the Law Review. The third year day class is well represented by Scott Keep from Clairmont Men's College, also a member of the Fed. Defenders Project. John Brock, from Aurora College, represents the third year night class and works as an N.E.L. psychologist during the day. The second year day rep. Dennis Diemanz, is a *cum laude* from Long Beach State. Howard Zlotnick is the second year night rep. and is a psychologist from Ohio State. The first year night is represented by Dave Cotton from Stanford who can generally be found on the golf course. Scott Harvey from Redlands and Frank Wenthold from Yale make up the representation of the first year day sections. I mention these gentlemen because they have to date put in an excessive amount of effort and are doing their jobs very well.

We have, since the last appearance of this column, had two Board meetings and I thought it would be proper to recount the subjects covered therein. Both were attended briefly by Dean Sinclitico who made announcements with regard to graduation, a University function this year, tuition, which will be increased next year, typing rooms which

are now available in the downstairs classrooms, and in addition, answered questions put forth by the class representatives. His attendance at these meetings is appreciated since it allows for new policy and provides a sounding board for questions and ideas of the classes.

At its September meeting the Board appointed Craig Higgs second year day, as this year's Law Student Representative of the A.B.A. Craig is actively soliciting memberships at this school and the Board recommends that students avail themselves of this opportunity.

The various committees of the SBA have been very active with the Law Forum presenting Harrop Freeman, from Cornell on Vietnam. Beverly Rubens is scheduled for Friday, Nov. 17 at 7:30 p.m. and will discuss a topic she knows very well, preparing for and taking the Bar exam. In addition the American Trial Lawyers Association has been contacted and will put on a seminar on advocacy, an all day program involving mock trials, on Sat., Jan. 27.

The Athletic Committee has in addition to the strong intramural football schedule provided for a golf tournament and a tennis tournament, both in progress at this time. A "championship" football game between USD and Cal Western law students is in the offing with beer being provided for participants and spectators by the loser.

The film forum's first temporary effort was "Darling" with Julie Christie. Its chairman, D. D. indicates that the forum will present one and possibly two more films of this type before the end of the semester. Two legal films, "Cross-examination of an expert witness" and "Prosser on Causation" from the Univ. of Mich. are also planned for this semester.



"I find for the appellant—you write up a decision telling me why and have it on my desk Thursday morning."

(Reprinted from "Colonial Lawyer" Marshall-Wythe College of Law.)



## ALUMNI IN THE NEWS

In beautiful **SAN DIEGO** we find:

### CARL E. ERICSON

who has been appointed Government Appeals Agent and is presently practicing law at 1350 First National Bank Building.

### JAMES W. HODGES

with the accounting firm of Haskins & Sells, keeping busy at 625 Broadway, Suite 1200 in the Bank of America Building;

### JAMES S. MARINOS

a partner with Marinos, Augustine, & Delafield, a firm of which **GEORGE S. MARINOS** is also a member, located at 2055 Third Avenue;

### GRANT T. RICHARDSON

Labor Relations Liaison to Assemblyman James Bear and an associate with Bear, Gelfand, Greer, and Bauer. The firm is located at 1568 6th Avenue in San Diego;

### EDWARD J. LEAVITT

a Major in the U. S. Marine Corps Reserve and presently applying his intricate legal knowledge as Operations Officer, 4th Tank Battalion, Camp Elliot, San Diego. He is also an associate with Rudick, Levin, & Platt located in the Electronics Capital Building, 110 West "C" Street

### WILLIAM M. MCCARTY

(when not teaching three "law for laymen classes" is) a partner with Jones & McCarty, located in the Electronics Capital Building, Suite 1700, 110 West "C" Street.

### RONALD R. HOUSE

An associate with Procopio, Cory, Hargreaves and Savitch, and currently Attorney in Residence at the firm branch office in Rancho Bernardo, 12425 Rancho Bernardo Road.

### HONORABLE RICHARD J. DONOVAN

has recently attended the first National Conference of Traffic Court Judges sponsored by the American Bar Association and held in Chicago, and the California College for Trial Judges held at Boalt Hall in Berkeley. He was the first Night Traffic Court Judge in San Diego.

### FRANK GREGORICH

a partner with Gregorich, Anderson and Edlefsen, 1805 Electronics Capital Building, 110 West "C" Street. In addition he is participating in the Federal Defender program and has three USD law students assigned to him.

### KENNETH A. WOOD

a partner with Hinchley, Katz, Witte, and Wood. The firm just recently acquired their own office building at 3232 Fourth Ave. in San Diego. He is a recent member of the Ninth Circuit Court of Appeals Bar and in November will attend the American Trial Lawyers Association Seminar on Medical Evidence at the Disneyland Hotel.

### BILL BLANK

is a stockbroker with Lester, Ryons & Co., 1904 U. S. National Bank Building at Second and Broadway in San Diego. He is Commanding Officer of Reserve Patrol Squadron VP-771 and is Vice-Mayor of Imperial Beach. He attended the League of California Cities Convention and at that meeting he may have met

### In SAN FRANCISCO

### RONALD B. FRANKUM

Special Assistant for Local Government for Governor Reagan. He is, among many other things, Governor's representative to the monthly meeting of the Constitutional Revision Commission which is currently rewriting our State Constitution. He is also working as coordinator on a statewide basis for a "Salute to City and County Government."

### ROBIN GOODENOUGH

president of two insurance corporations, one being Goode-nough Insurance Inc., 1027 Orange Ave in Coronado. He is a member for the eleventh year of the Million Dollar Insurance Club; is serving on the Republican County Central Committee; has just been promoted to Captain in the U.S. Naval Reserve and is in Command of "Navel Reserve Officer's School 11-2" - largest in the 11th Naval District. He plans to take the Bar Exam in '68 although it is hard to see how he will find the time for it.

Being adventurous we take another short drive to **LINDSAY** and

### WALTER MCARTHUR

on the Board of Directors of the Lindsay Chamber of Com-

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## THE COURT JESTER

Decisions may change, judges may die, trends may develop but there is one fact which does not change: the six or so days a year in which you find yourself unprepared - you will be called on. As the phrase "Unprepared, Sir" rings out, a crushing silence falls on the class, the visibly shaken advocate, disturbed by this bit of academic decadence retorts, "Is there any special reason for your unpreparedness?" Thus, the court jester now gives the academically embarrassed some cogent responses, to wit:

1. It's my birthday.
2. Someone broke into my apartment and stole my "cans".
3. I was thinking of committing suicide, but I'm over that now.

4. Yesterday was a religious holiday (Hedonist).
5. I don't read (New York) cases.
6. You are always picking on me - I know it - I can't take any more.
7. This is an elective - it is not madatory that I prepare.
8. I went blind last night in preparation for blind finals.
9. I don't believe in the case system.
10. Consider this an unexcused absence.
11. May I make a phone call?
12. I crave attention from my peer group.
13. Uhh, well, I want to see a new legal singing group in town last night, Shelley and the Remaindermen.
14. I didn't hear the question.

Walter Kaye

## Greenbacks From Green Cards

By Dan Gallardo

In an effort to obtain "greenbacks" for the county's coffers from "sponsors" of Green Card-Aliens on Welfare, the Board of Supervisors conducted a hearing on October 16, 1967 at which the principal witness was Mr. George C. Rosenberg, Director of Immigration and Naturalization for the southern portion of California. The legal sufficiency of the affidavits of support signed by Green Card Alien "sponsors" was the prime issue. Court decisions at different levels of jurisdiction in this area are: *Dept. of Mental Hygiene of State of California v. Renel*, Misc. 1957. 167 N.Y.S. 2d 22; *State ex rel. Atty Gen. v. Binder*, 1959, 96 N.W. 2d 140, 356 M Mich. 140; *County of San Diego v. Aranda*, App Dept Superior Ct. No 290744, Jun 17, 1965; and *County of San Diego v. Viloria*, Superior Ct No. 297377 April 11, 1967. But, as typical of the law, the former two state Supreme Ct cases hold affidavits are moral obligations not enforceable as contracts, the latter two contra.

### Public Burden Cited

The hearing allegations were that countless aliens were receiving public assistance from the County Welfare Department expending untold sums in local taxpayers' funds, where other resources appeared available.

It must be noted that the Board, properly exercising its responsibility for the administration of welfare programs, in addition to responsiveness to the local body politic, has the duty to preserve and protect the assets of the local treasury from unwarranted depletion. It must investigate any possible resource available to the County or the alien and reduce the budgetary burden of welfare administration. The Board's concern was to seek reimbursement from green card "sponsors" for welfare costs already expended which in theory was the obligation of the "sponsors."

The complexity of the matter is highlighted by the very process of immigration itself, which by necessity involves the State Department and the Attorney General's office, each of which have independent jurisdiction at the various stages of immigration.

### Alien Defined

The close proximity of the Mexican border quickly brings to mind, Mexican-Aliens, however, the Board had no particular group in mind. An alien as defined in 8 U.S.C.A. 1101 a (20) is any person not a citizen or national of the United States (the latter owing permanent allegiance to the U.S.). There is also nothing magical about a green card - merely a term used for the Alien Registration Receipt Card Form I-151 which gives identifying information about the alien which must be carried at all times as proof of registration similar to a draft card.

The Departments of State's consular officer is the first to review the alien's qualifications to reside permanently in the U.S. Denial of visas can be based on 31 grounds found generally in 8 U.S.C.A. 1182 and specifically sec. 15:

"Aliens who in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission are likely at any time to become public charges,"

and his decision is final. However, receipt of a visa does not guarantee admission to the U. S. as the Attorney General is charged with the responsibility of determining that question and can exclude an alien on the same grounds used by the Consular Officer in his earlier determination.

### No Sponsorship Program

It must be noted that there is no "sponsorship program" authorized by statute or regulations whereby admission can be obtained. However, on a case to case basis, using independent discretion, the consular may require

some indication that the applicant will not become a public charge. The "hurdle" of sec. 15 can be met in any manner the consular so chooses, such as proof of employment, savings, etc. It is evident that the issue of public dependency may never arise in a substantial majority of applicants. Using his discretionary powers, the "proof" required to offset his suspicions of dependency, where the applicant for example, from an underdeveloped country with low per capita income is unable to deposit large sums of money, yet would be capable of earning a living if admitted, may be an "Affidavit of Support," whereby the signer assures the officer the applicant will not become a public charge.

### Legal Basis

In the *Renel*, supra, and *Binder*, supra, cases which concerned the recovery of costs of state mental hospital care, the argument was successfully submitted that no statutory authority existed for the extraction of an affidavit of support to satisfy the consul that no dependency would occur; therefore, no contract was created. The consul had no power to contract with defendants. The contract was a moral obligation and not enforceable as a contract. The courts took Judicial notice of Congressional intent to make these affidavits only moral obligation. Hence, in both cases Defendants were held not liable for cost of maintaining the alien in a state mental hospital.

### Ultra Vires

The principal arguments have been that the plaintiffs (state mental hospitals) have been in a sense a third party beneficiary to the individual contract effected between U.S. Counsel and the "sponsor" of the alien. The court further stated "the plaintiff (state of California) had the burden of establishing that the immigration authorities

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## Fly-By-Night Law School -

... The Easy Way Out?

By Margie McDonald

A prospective law student is attracted by the statement in the Fly-By-Night School of Law catalog: "The highly satisfactory bar examination record of its graduates affords convincing evidence of the thoroughness of instruction in the regular work of the Law School." The catalog fails to mention, however, that this statement is based on the fact that one person out of eight (12.5%) from this school passed the bar exam on the first attempt and only one out of every fifteen (6.7%) subsequent attempts was successful.

The catalog also indicates that the school is concerned with the welfare of its students. It recommends that the student secure housing well in advance of coming to the school because "acceptance by the Law School does not assure you living accommodations."

A total of eighty-four (84) semester hours are required for graduation, and each student is ostensibly given a choice of electives. Seventy-eight (78) units cover the subjects on the state bar exam,

five hours in other courses are required by the school; therefore, each student has one semester hour of the regular course available for a truly free choice. The courses offered at Fly-By-Night include such interesting and esoteric subjects as Oil and Gas (both I and II), Civil Law System, Orientation, Pharmaceutical Jurisprudence, Air Law, Wrongs (a combination of Torts and Criminal Law), Relational Interests, Automobile Accidents, and Protection of Industrial Property. Seminars are available in African Law and Cooperative & Agricultural Marketing.

In its courses, Fly-By-Night purports to use the case method of instruction, but the professors tend to lecture. Many professors merely dictate to the students and then re-dictate to make sure that the notes of the students accurately reflect what has been dictated. In some courses, it is considered best for the students to devote all their time to listening to the professor. In those courses, mimeographed notes are passed out, and the students are urged not to take notes.

To insure that the students receive the maximum benefit from this instruction, and to protect the students from their own folly, class attendance is mandatory. However, the administration recognizes that there may be circumstances making such attendance impossible. The school therefore provides printed "Petition for Excused Absence" forms. In order to be granted an excused absence, a student merely fills out and signs one of these forms (in duplicate) and presents it to the Dean for approval. Students have been known to have these requests notarized.

Even though class attendance is mandatory, the school itself may prohibit such attendance. Students who have unpaid accounts and are delinquent in their financial obligations are subject to exclusion from classes until payment has been made. A similar rule applies to final exams. Under no circumstances will a student be permitted to take any final exam or receive any credit for the work of a semester

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# GREENBACKS FROM GREEN CARDS

(Continued from page 3)

were authorized as agents for employees to enter into a contract with the defendant . . . and the defendant did not have to plead "ultra vires" as an affirmative defense. An implication is that had the state met the burden, different results might have ensued. Ultra vires acts occur where there is some scope of authority to transgress; acts completely without authority would be illegal or unlawful. The plaintiff arguments based on the general intent and express authorization for a bond under 8 U.S.C.A. 1183 failed because as to the Attorney General, he was not a party to the initial visa application. A better approach would have been to utilize the intent of 8 U.S.C.A. 1201(g) which provides, generally, that visas will be denied to those ineligible under section 1182 except that those within subsection 15 may receive a visa after the consular officer receives notice from the Attorney General that a bond, or undertaking providing indemnity has been given. From the express wording of the statute it is apparent that Congress intended both offices to work jointly to reduce any possible barriers on grounds of likelihood in becoming public charges.

## San Diego Decision

The loophole found in the *Boonder* case supra was effectively treated in the *Aranda* case by the appellate department of the Superior Court. GLEN, P. J.; TOOTHAKER, J. and CONYERS, J., deciding from arguments advanced by Deputy County Counsel LLOYD M. HARMON JR.

Once the court concluded the affidavit between the defendant and consul was a lawful contract, and the consul was so authorized to contract and did in fact permit entry upon the representations contained therein, the County of San Diego became a third party beneficiary and entitled to recovery of \$718.38 for hospital care and treatment rendered to the alien. It was pointed out that it was neither the consul nor the Immigration Service's intention to support the alien. Therefore, having executed the affidavit stating: "I am ready and well able to receive, maintain and support . . . immigrant . . . That I also guarantee the American Consul and Immigration Service that I will not at any time allow said (alien) . . . to become a public charge in the United States," procured the alien's entry "they have a legal obligation . . . and are estopped to deny their liability."

In *Vitoria* decided April 11, 1967 Superior Court Judge Verne O. Warner concluded defendant "did knowing bind himself by signing the affidavit stating: 'I guarantee that he will not become a public charge' and became liable to the county for serv-

ices rendered to the alien at County University Hospital in the sum of \$5,879.27. The *Renel* case supra was rejected and its decision voided on *Aranda*, supra.

## Deportation

In the alternative, should the alien become a public charge, he may be deported as provided under 8 U.S.C.A. 1251.8

"Any alien . . . shall upon order of the Attorney General be deported who in (his) opinion . . . has within five years become a public charge from causes not affirmatively shown to have arisen after entry"

However, there are some limitations since not every public charge is deportable even within the five year period.

The distinction is made between a "post entry" and "pre-entry" condition with the burden on the alien to prove activities after entry leading to the dependency were not based on a pre-entry condition. On a "relation back" principal, the government has for a five year period the opportunity to discover facts about a condition that had it been known it would not have admitted the alien.

For Example, within the five years, an alien window washer falls off the ladder while on the job and requires county hospital care, is unable to work and may require General Relief or Aid to Families with Dependent Children for support; or suppose, he suffers from an unknown schizophrenic condition and is interned in Psych Ward 100, and doctors state his condition has existed from birth or prior to entry.

In the former case he is not ordinarily deportable; in the latter, clearly deportable because he would not have been entitled to a visa much less entry. After the five year period, in the latter case, he would not be deportable unless fraud had been committed to gain his entry. The term "public charge" as a taxpayer's responsibility versus deportability takes on a new meaning as the immigration department is no longer interested.

## Employable?

The issue has been raised that many aliens have entered the U.S. with marginal skills or earning potential and soon thereafter "line up for welfare warrants," but the 1965 Amendment to section 1182 requires aliens (except spouses, parents or children of performing skilled citizens or alien in the U.S.) or unskilled labor to obtain a certificate from the Secretary of Labor essentially stating no domestic labor is available and no adverse effects would result on wages, etc. for domestic workers.

By the exception, it is conceivable that a chain of relatives of marginal skilled aliens could be admitted. A factual case occurred when several members of a European family pooled their resources, obtained a high four figure loan from the bank, and then as each additional member would apply for admission, the routine investigation of financial soundness revealed adequate resources. However, the same money was transferred from several accounts, to various branches,

with numerous withdrawals and additions, but essentially, always the same borrowed money. Several of the members have received public assistance.

## Welfare Dept. Policy

The Department of Public Welfare's established policy as announced in Bulletin No. 303, June 28, 1966 states:

"Aliens who apply for public assistance (all programs) are referred, IF AID IS ISSUED, to the Immigration and Naturalization Service.

Staff members are cautioned that the mere application for direct aid does not prejudice the alien's status with INS and are not deportable nor is Aid to the alien's needy children a basis for deportation as that aid is not reimbursable. The Immigration Director has stated that only a total of 100 aliens were deported in the entire U. S. last year as public charges and there are 800,000 aliens alone in California.

The Welfare Department's records are not sufficiently complete to indicate how many aliens have persons who have signed affidavits on their behalf. DPW Form 7-"Face Sheet" provides a space for citizenship and naturalization information, date of entry, etc. But in a majority of instances it is cursory or wholly outdated. As it has been shown the "sponsorship program" is a misconception perhaps social workers were not asking the proper questions. It is further noted that citizenship can not be a condition of aid, subsequently, this portion is not emphasized from an eligibility stand point, but may affect case planning.

## Prohibitive Costs

The administrative costs to update the records could be staggering. Recently, social workers were instructed to survey all case records only to have the survey can-

celled one-and-one-half hours later. At an average cost of \$4.00 per hour (social worker with two years experience) and 30 workers involved, (many Sr. Social Workers with five to ten years and a higher pay grade) at least \$200 was expended - 2/7 of the total amount recovered in *Aranda*.

Mr. Rosenberg of the I.N.S. mentioned that of 128 cases reported in the newspapers only 23 were identifiable by immigration authorities and only 14 cases had sufficient information furnished to determine whether any action could be possible.

It should be noted that all cases discussed herein involve cost of care in either mental or medical institutions. Traditionally, hospitals have been permitted greater latitude by the courts and legislatures to impose liability on relatives, on real property, other counties or agencies, reciprocal agreements with other states. As a general rule, liens on real property or a waiver of statute of limitations, are signed as a condition of admission.

Under the same rationale as *Aranda* and *Vitoria*, welfare costs may be recoverable; however, inherently there are more problems involved such as Statute of Limitations under CCP 345, Prohibitions against reimbursement, defense of laches, questions of continuing guaranty and social policy.

In 1882 when the term "public charge" and 1886 and in *In Fe Day* supra, the principal peg for establishing a contract in *Aranda*, such programs as Social Security, Medicare, Old Age Security, Aid to the Disabled, Aid to the Blind, Aid to Families with Dependent Children and MediCal were nonexistent. Welfare was handled on a city or ward level with limited resources. It was

constitutional to work tender teenagers in coal mines, and industry.

## Conclusion

Moreover, the consul in passing on the alien's qualifications is concerned with the issuance of a visa - a passport into the Attorney General's domain - not entry. Could it be argued the latter is concerned with admission and deportation asks: "If admitted, is this alien likely to become a public charge WITHIN FIVE YEARS, therefore, requiring me to take deportation action?"

Did Congress by placing a five year limitation on deportation, not expressly authorizing, or requiring an affidavit of support, in effect, declare its intent in this area and impliedly place a statute of limitations, except under 1183, on any action for becoming a public charge? Did Congress contemplate an alien Immigrant who loses his means of livelihood be neither deportable nor able to apply for public assistance?

California's State Dept. of Social Welfare Regulation 40-109.1 states emphatically " . . . any person has the right to apply for aid, either in his own behalf or on behalf of another, including an unborn . . . " Therefore, can a third party contract away the rights of an alien? If yes, would the alien have any recourse under Civil Rights legislation based on his national origin?

Needless to say, simplicity would be achieved if Congress so expressed its intent in clear concise terms.

However, certain results will occur locally; anyone asked to sign an affidavit of support will not do so lightly. Local attorneys will be seen examining title eight of the U.S. Codes, and said, backers may soon be turning over greenbacks to the County Treasury.

# FLY-BY-NIGHT LAW SCHOOL

(Continued from page 3)

who owes any unpaid charges on the day scheduled for the commencement of the exam period.

## Exam Sessions

Examinations are given only at the end of each academic year. Neither examinations nor grades are given in individual courses. Yearly, each student takes one comprehensive examination lasting three days - seven hours a day! A student fails or passes the entire year's work. This stringent exam schedule is made tolerable by the fact that if a student receives failing grades, he is sent an application for re-admission in the same envelope that contains his notice of exclusion.

The administration believes that a law school located near a public law library does not need a library of its own. However, the Fly-By-Night Law School is not located so favorably, and it has its own library - containing 1,000 volumes! The reading room of the library contains one chair for every twelve students. Half of the one thousand books are inaccessible without the use of a ladder while some of the books are stored in an unheated loft which is

inhabited by bats, and none of the books can be obtained except by filling out a card at the main desk. The law librarian is not a professional librarian. The Dean stated that he would under no circumstance engage a person for this position has had professional library training.

When the students are not studying, they can participate in various intramural sports such as judo, boxing and track. Students are particularly enthusiastic about track because it will be helpful if those bats ever escape from the library loft.

Other school activities include weekly chapel services. At Fly-By-Night Law School, regular chapel attendance is regarded as a significant measure of a student's desire to participate in the spirit and customs of the school. Since chapel services are so important, attendance is mandatory. For each absence from chapel in excess of three times during any semester, one-half credit hour is added to a student's requirement for graduation. Therefore, failure to attend chapel at all during any semester will add seven units to the graduation requirements. Any appeals to the Chapel Committee regarding penalties should be made within three weeks

after the end of the semester.

## Real Life

Naturally, there has never been a law school exactly like the one just described - except perhaps in the nightmares of law students. If such a law school existed, it could be called the Mickey Mouse Law School. This hypothetical Fly-By-Night School of Law is a composite of conditions that have actually existed or presently exist in American law schools. For example, the mandatory chapel requirement, with one-half unit added to graduation requirements for absences in excess of three, is a requirement that still exists in at least one law school. Some of these conditions were discovered by a committee called the Survey of the Legal Profession, which was organized in 1947 for the purpose of obtaining facts about the legal profession. Comprehensive questionnaires were sent to the Deans of all 168 law schools in the United States. Of the 168 schools, 136 answered the questionnaires, and 160 schools were visited and personally investigated by members of the committee. The results of this study were published in *The Law Schools of the United States* by Lowell S. Nicholson.

**CHRISTMAS  
DANCE  
SATURDAY - DEC. 16  
9:00 P.M.  
Los Penasquitos  
Country Club**

# CIVIL DISOBEDIENCE NECESSARY or NEEDLESS...

## In Defense

By ALAN GOLDSMITH

Civil disobedience is non-violent coercion designed to call attention to and, in most cases, change a particular law or policy of the state. It is intentional, non-violent communication and therefore intended to be within the protection of the First Amendment. It is the resort of those who are denied other effective means of asserting power.

Civil disobedience is a valid procedure for asserting the unconstitutionality or invalidity for other reasons of a law. To argue that absolutely no violation of law should be countenanced in a democratic and orderly society is to ignore the perfectly legal procedure for bringing many kinds of cases to court. Two examples are the income tax law, which requires a refusal to pay taxes (civil disobedience), then entry into Tax Court; and the draft law which requires that a draftee report but refuse to be inducted. The use of civil disobedience as a procedure to challenge the law is exemplified by the civil rights movement which has persistently broken local laws that appeared to be unconstitutional on their face or discriminatory in their application to the protestors.

It was necessary for negroes, therefore, to enter a park, to eat at a lunch counter, to parade without a permit, to ride the front of a bus and to show up for school in order to test their theory that, while in violation of some local law, their action would be vindicated upon redress to a higher legal system outside their locality. The result of such action is so well-known and lauded that the original illegal acts which promoted the civil rights decisions have paled into insignificance.

### NON VIOLENT POLICY

Nevertheless, there has always been the argument that in view of the lawlessness necessary, the actions of the civil rights workers were indistinguishable from the oppressive regimes they sought to overturn. This shallow observation can be neatly rebutted. Governors Barnett and Wallace and their legal representatives have persistently flaunted the law by avoiding, by means of coercion, evasion, deception, and brutality, the proper determination of their legal disagreements by the Supreme Court. They have merely used the law as a hazy cover for their violently anti-social aims.

On the other hand, the express policy of the NAACP since the early 1930's has been to attain social equality by legal means through the courts, whereas the express and tacit policy of the South has been to deny it this recourse. It should also be remembered that, once the disobeyed law has finally been tested and cleared up, the decision becomes the new law and may thereby legitimize those acts which were previously illegal.

### NO EVIDENCE

Civil disobedience is frequently argued against on the ground that to allow one group to disobey the law is an open invitation to everyone to disobey. Although

it is currently popular for certain moralistic politicians to cite the rising crime rate in America as empirical evidence of the dissolution of law and order, and, consequently, to ask for the suppression of civil rights and peace demonstrations, this argument is completely fallacious.

No serious thinker has suggested a causal connection between civil-disobedience crimes, such as parading without a permit, trespassing, and disorderly conduct and those inherently outrageous crimes such as murder, rape, and robbery. The fallacy of the causal argument is based on the obviously incorrect premise that advocates of civil disobedience are revolutionaries and seek by their conduct to bring about the downfall of the entire legal system. Civil disobedience against discriminatory laws and the draft is resistance to specific problems; it is not an endorsement of general revolt.

The tendency to so confuse the issues is merely a convenient means of placing a defensible specific into an indefensible generalization. Besides, strict adherence to all laws might mean a preference for any law, no matter how absurd, over a more rational but admittedly illegal course of action.

### SHOW OF CONSCIENCE

Opponents of civil disobedience will be quick to respond that everyone would argue that they could disobey because most others would not. This reveals the opponent's own perverted view of the law as something to be "beaten". Civil disobedience does not depend on bad intent or stealth and is not designed to injure other individuals or the government. The peace demonstrations are designed not to cripple the war effort, aid the enemy, or shift the burden of fighting onto others, but to show the government and the people the conscience of the demonstrators.

Civil disobedients depend for their very success upon a law abiding society. They hope that their example will not be misconstrued as revolution for the reason that the objective is only worthwhile in a society reordered upon the changes invoked by civil disobedience. Thus, civil rights demonstrators call for a changed society wherein social equality for all races will exist — not for anarchy where no man's rights are respected.

### DEMOCRACY NO GUARANTEE

The next argument states that there is really no need for civil disobedience in a democratic and free society such as our own. No matter how democratic a society may be, this is still no guarantee that a majority of 51% will not subject the other 49%

## Politicos Organize

Something new has been added to the USD campus this term: two political clubs, for the student who wants to participate in the determination of our government's goals. Sponsored under the authority of the College for Women, we now have a Democratic Club and a Young Republican Club. Both organizations are actively soliciting the support of students from the Law School and the College for Men, in an effort to make the clubs truly representative of the entire University.

Dean Sinclitico has made it clear that Law students as individuals, should participate in any out of school political organization. He has, in fact, stated that he views efforts for an increased amount of University-wide activities as something to be encouraged.

### OFFICERS

The President of the Young Republican Club is Katie Brown of La Jolla. Katie stated that the whole idea started last year when she and Debbie Duggan, Associated Student Body Vice-President of the Women's College, spoke to their Dean about the suggestions, as a possible way to end student apathy.

Mary Ellen Cahill, also of La Jolla, the President of the Democratic Club announced that the policy of the club would be to conduct little business at the meetings, but to concentrate on speakers and announcements. The Democratic group is not affiliated with the Democratic Central Committee or the Young Democrats, but, rather, chose to be affiliated directly with the State Democratic Party.

The Democratic Club will be involved in campaign work later, for a nominee that the party chooses to endorse. While there are no dues for the Democratic Club, films and tapes will be shown, and a donation at the door will be accepted.

It was stated that while the Demo Club will be active for the remainder of this term, formal elections will not be held until February. Mary Searey, also active in the Democratic Club, is acting Vice-President. The Democratic group expects to adopt a formal constitution this month.

Those interested in joining the Democratic Club may leave their names in the Associated Student Body office at the Women's College, with address and phone number.

The President of the Young Republican Club, Katie Brown, currently being aided in her organizational efforts by Ellen Curtin, announced that formal elections will be held at the club's meeting this month, and plans for campaign strategy will be formulated. While the Young Republicans have no solid block supporting any particular candidate for the forthcoming general election, the club intends to be active in campaign work for many candidates, local, state, and national.

## Self-Serving And Ineffective

By Joel Dwork

The recent protest held in Washington, D.C. against the war in Vietnam received nation-wide attention and proved (coast to coast in living color) that people in this country have a constitutional right to assemble and to speak, but not to violate the law. It should be noted that the moderates from groups like SANE and Veterans for Peace were reluctant to partake in the festivities. It is important to realize that any progress that is made will be made by people dedicated to the ideals of the cause they are working for, as well as their own entertainment. To be effective they will not have to break the law.

Our Democracy is governed by rule of the majority, subject to the rights of the minority. While it might be difficult to effect any substantial changes without popular support, the lack of support does not mean that the majority can wantonly persecute the minority. This country has provided measures to insure protection in this area; one of the most notable being the United States Supreme Court.

Orderly change can be achieved! There is no need to break the law and it should not be thought that lawlessness elevates an otherwise obscure person to the ranks of the brave and noble. When compared to the task of formulating an effective program through what might be countless hours of hard work, breaking the law is the easiest, most unimaginative, and least beneficial alternative.

### POPULAR SUPPORT

The essential element needed to promote change in a Democracy is popular support, which people are reluctant to give to an organization which advocates lawbreaking. Once having broken the law it is difficult to set limits at which it should no longer be violated and a well intentioned supporter can find himself giving aid to an organization far more extreme than he first imagined. Defying an injunction against marching can easily lead to far greater involvement at the drop of a Molotov cocktail. Consider the plight of those responsible people supporting SNCC when it was non-violent. Do you think they may be hesitant to support any further movements in this area?

By its very nature lawbreaking, even nominally, will attract an element more interested in displaying its power and gaining notoriety than resolving the problem in question. This same element, because of its tactics, may gain control of the group and advocate more serious action. The excitement of exposure to the public is more important to them than any real achievement. Issues arise on which constructive criticism will not be ignored because the problems are of great importance to the future and prosperity of those in a position and willing to help. This undesirable element, because it commands a following, which will give active support, will not negotiate in good faith.

### LEGAL CHANGE

I cannot believe those who make the laws will be quick to reward those who consistently disregard the law. Working within the framework the law provides, there-

fore, will prove more effective. I refuse to believe that unlawful assembly is as effective as an economic boycott. The police or National Guardsmen always be used to clear the streets, but who can you call on to buy your goods? If a law is unjust, it does not have to be violated to be eliminated. The Federal Declaratory Relief Act and filing for an injunction against enforcement of the law can be used for this purpose. Trespassing is not essential. A hard-working pressure group, adequately supervised and coordinated, can inform and convince the public and thereby achieve a change when needed.

This would be more beneficial than presenting the public the picture that the police have to be used to keep order, which will alienate those who might otherwise be willing to give support. Once it is made clear that ignoring the law will not be tolerated, the element more interested in itself than in a constructive program will not take part, giving the cause a chance to succeed. Those few who may find their way into the cause will not succeed in having their ideas ruin its efficiency.

The labor, peace, and civil rights groups that rely on civil disobedience for progress are not serving the best interests of the community. Violations of the law may achieve notoriety and make for some immediate change, but in the long run will not serve the best interest of the country. This is what Abraham Lincoln may have been thinking when he said:

"Let every American, every lover of liberty, every well wisher to his posterity, swear by the blood of the revolution, NEVER TO VIOLATE IN THE LEAST PARTICULAR, THE LAWS OF THE COUNTRY; AND NEVER TO TOLERATE THEIR VIOLATION BY OTHERS. As the patriots of seventy-six did to the support of the declaration of Independence, so to the support of the Constitution and laws, let every American pledge his life, his property, and his sacred honor; — let every man remember that to violate the law, is to trample on the blood of his father, and to tear the character of his own, and his children's liberty. Let reverence for the laws, be breathed by every American mother, to the lisping babe, that prattles on her lap — let it be taught in schools, in seminaries, and in colleges; — let it be written in primers, spelling books, and in almanacs; — let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the political religion of the nation; and let the old and the young, the rich and the poor, the grave and the gay, of all sexes and tongues, and colors and conditions, sacrifice unceasingly upon its altars."



## P.A.D. NEWS NOTES

Phi Alpha Delta Legal Fraternity recently culminated one of the most colorful and successful fall rush periods in the short history of the fraternity at the University of San Diego School of Law. The rush period was launched with a "Rum Fiesta" cocktail party which featured a rum punch mixed from a secret formula "borrowed" from a leading caterer in San Diego. The result was enjoyed and appreciated by all who experienced it.

The second event was a wine taster at which Paul Massonne "Nector of the Gods" flowed with abandon. Lucky winners of individual bottles of wine were Don and Pat Schmidt, Kent and Charlene Levis and Bill and Joan Banti.

Both events were attended by several prominent attorneys and their wives, including past Justices of McCormick Chapter, Alex Harper, now with the San Diego City Attorney's Office and Major Bill Draper, staff legal officer

in the U.S. Marine Corps at Camp Pendleton, California. Also in attendance were some of the law professors from USD who are members of P.A.D.

### Pledging & Initiation

The end result of the rush period was that Phi Alpha Delta enlisted 17 pledges comprised almost entirely from the second year day and second and third year night classes, which gives promise for a very strong and active chapter for the immediate future. On Sunday, October 15, 1967, the rushees from the University of San Diego School of Law and California Western School of Law were initiated in a combined ceremony at the San Diego Superior Court. Following the ceremonies, officiated by local alumni, the new members met with the rest of the active chapter and alumni association at the Kona Kai Club on Shelter Island where hors d'oeuvres and cocktails were enjoyed in the traditional P.A.D. fashion.



P.A.D. Initiates for Fall Semester, at San Diego Superior Court for Ceremony.

## In Defense of Civil Disobedience

(Continued from page 5)

of the population to some law that may be immoral, unwise, or oppressive.

The Framers of our Constitution foresaw this possibility by providing us with a Bill of Rights to protect us from just such improvidence. Civil disobedience is not a catch-all theory to be used to justify breaking the law for reasons of mere convenience or expedience. Albeit the concept of democracy implies an agreement to abide by the will of the majority, it is still plausible to consent to lawful behavior while at the same time reserving strong moral convictions.

### MEANING OF CITIZENSHIP

Lastly, there is the argument that to accept all the benefits of membership in our society and then to refuse to do something extra when special burdens arise is antithetical to law. This is totalitarianism. The assumption that the receipt of all the benefits of nationality waives

the constitutionally guaranteed right to disagree with certain things should be repugnant. It is also said that such benefits depend on the cooperation of every member of society. There is simply no indication that the same national benefits will not persist despite the active dissidence of a major group.

Furthermore, the assumption that the Vietnam War, for example, is a national benefit to all is, I think, a dubious one. Then there is the question of why, if the allocation of national benefits demands universal obedience to laws, these benefits are, in spite of relative constant obedience, distributed so unequally among the different classes in society. How would the soldier in Vietnam compare his benefits to those of Dow Chemical stockholders?

In conclusion, it is clear that civil disobedience is a controversial matter because, like no other method, it has been employed to change the

## Undergrad News

The Associated Students will publish its 1967-1968 edition of the USD Whitepaper on November 27, 1967. The Whitepaper is the direct result of a committee composed of students, faculty and administrators at the College for Men. Its basic purpose will be a "blue-print" for action on several areas, academic, religious, and social, which need improvement, not only at the College for Men, but for all institutions on the hill. It is being co-edited by Dennis Sinclitico and Barry Vinyard.

### SPEAKERS COUNCIL

The Associated Students at both the College for Men and College for Women have launched wholeheartedly into an organization called the Inter-Collegiate Speakers Council. Its basic purpose is to acquire nationally and inter-nationally known speakers for the San Diego Campuses. Also participating are Cal Western and UCSD.

### BASKETBALL

Basketball at USD will be better than ever this year, not only because of the tremendous potential with Phil Woolpert's team, but also because of the capital improvements made in the gymnasium. A new \$4,500 floor has just been completed in the gym. This will be followed in early December by installation of \$14,500 worth of roll-out bleachers which were purchased through a fund raising drive sponsored by the CM Associated Students.



Phi Delta Phi also had initiation for Fall — with usual voluminous warm bodies.

## PHI DELTA PHI REPORTS

Understanding the need for reincarnation or the revisitation of the convivial, festive spirit, Wigmore Inn of Phi Delta Phi has conscientiously sought this omnipotent vestible of mirth this semester. Beneath the piles of the Internal Revenue Code, Cal. App. 2nd's, Curry on Conflicts, Lenny Bruce on Family Relations, and Gilbert's Outlines, this exude of happiness has been found.

### FALL INITIATION

On October 20, the Inn held its fall initiation for upperclassmen in the chambers of the San Diego County Superior Court. A fine group of seventeen new members were welcomed. After the initiation, a celebration was held at Le Seale restaurant on Shelter Island. Judging by the turnout and the obvious void in the library on the following Saturday, a good time was had by all.

### COURSE REVIEW

In late October, Phi Delta Phi held its annual first year course and study review session. Carried out by Sy Rose and his "brain trusts", the usual high quality help was on hand. The Inn would like to thank Sy for his continued leadership of this event for

the past three years. Its excellent quality and expert approach have resulted directly from his hard work, expert knowledge, and unselfish diligence. Thanks, Sy, for a job well done!

### FUTURE EVENTS

In November, Wigmore Inn will engage in a series of "stags" to bring the members of the Inn closer together. Combining activity and free beer at the meetings, a larger turnout is expected. Planned also for November, is a local speaker at the law school on a topic of practical interest.

Activity for December will center around the All-School Holiday dance. In order to insure the proper attitude of the seasons festivities, a pre-dance cocktail party will be held for members and guests at a local beauty spot. Socked (or Stoked) with appropriate refreshments, this annual affair has been one of the most legendary at the law school.

December will also mark the time for annual elections. All members are hereby put on public notice that the December meeting will embrace the election of Spring and next Fall officers and you should start thinking about possible candidates.

## Head Notes From Law Review

Preparation of manuscripts for Issue One of the San Diego Law Review's fifth volume is nearing completion.

The rigorous pace and time consuming business of writing for Law Review has proven disastrous for about 25% of those writers who accepted the original challenge. Yet the articles who did emerge from this competitive struggle should be both informative and per-

minent.

The difficult job of publishing the Law Review is made a little easier by the faculty's cooperation and the administration's support. Recently Dean Joseph A. Sinclitico Jr. agreed to provide each student with an issue of the Law Review commencing with Volume VI. Barring unforeseen events, this will be a continuing policy of the administration.

The 16th Year of the

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Hip to Hip, Shoulder to Shoulder — Arm in Arm at the Law Wives Dance. From left — Larry Royce, Jim Street Prof Dawson, Mrs. Dawson.



## BEHIND THE ROSTRA

## JOSEPH S. BROCK

By John Massucco

Have you been introduced to the warm and friendly smile of "the chancellor?"

The University of San Diego is indeed fortunate to have as a Professor one with such a varied background. The same determination with which he has covered many and varied positions is reflected in the diligence and perseverance manifested in his never-ending slogan of "class, we just aren't covering enough ground!"

## EARLY YEARS

Professor Brock was born and raised in the small farm community of Sheldon, Iowa. He comes from a highly professionalized ancestry, hav-

ing a father and grandfather who practiced medicine and an uncle who practiced law.

While completing his major in chemistry at St. Thomas College in St. Paul, Minnesota, he engaged in such activities as writing for the college paper, debating, working on the college annual, and was president of the College Literary Society. After graduation from St. Thomas, Professor Brock went on to Stanford Law School. His class was the first class of which Stanford Law School required a four-year college degree. In his freshman year there were seventy-six students in his class, but only thirty-two of the original class graduated. While at Stanford, he became a member of the Delta Theta Phi Legal Fraternity.

## LAWYER

Professor Brock graduated from law school during the toughest year of the depression. He considers himself fortunate to have secured a job in a Santa Barbara bank as an assistant trust officer.

After serving in this capacity for several years, he began a private law practice in Santa Barbara, California. While in Santa Barbara, Professor Brock served his community in civic, political, and cultural capacities including president of the Junior Cham-

## LAWYER - PROFESSOR - WORLD TRAVELER

ber of Commerce and president of a social service agency. He is currently a member of the Board of Directors of Catholic Family Service in San Diego.

In view of the impending world situation prior to World War II, he went to Washington, D.C. where he was appointed to a position in the United States Treasury Department. While there, he made a study of the laws for control of enemy funds in Latin American Countries.

He later became a section chief in the General Counsel's Office of the Alien Property Custodian. During this time, he served a few months in the Army Ground Force Headquarters at the Army War College in Washington, D.C. After his discharge from the service, he returned to the Office of Alien Property Custodian and later transferred to the Department of Justice as an attorney, serving as Chief of the Administrative Regulations Section of the Criminal Division.

He was later appointed Chief Assistant Commissioner of Corporations of California by Governor Earl Warren. Toward the conclusion of Governor Warren's service as Governor, Mr. Brock resigned to accept an administrative position at Stanford University as an Associate General Secretary of the University.

Professor Brock began teaching law at Chicago-Kent College of Law in Chicago, Illinois. The following year he became a member of the law school faculty of Creighton University in Omaha, Nebraska.

In 1960, Professor Brock, motivated by the challenge of teaching at a young law school, came to the University of San Diego School of Law.

Although Professor Brock's name is quite frequently associated with Trusts, Wills and Equity, the courses he enjoys the most, his experience in teaching is by no means limited. He has taught Family Law, Criminal Law, Real Property, Future Interests, Partnership, Agency, Administrative Law, and Insurance Law.

Professor Brock is a member of the California Bar, District of Columbia Bar, and the Iowa Bar.

## HOBBIES AND INTERESTS

He has traveled in the United States, Canada, Mexico, the West Indies, and Western Europe. While traveling, he especially enjoys visiting the various law schools and law courts, both in this country and abroad. His favorite entertainment is attending the Symphony or listening to symphonic music, either on FM radio or phonograph records.

He enjoys a wide variety of reading but his special interest lies in history.

## THE STUDENT

Professor Brock emphasizes that the "foundation of a law student's standing is his studies." He notes that the student is provided with many activities in law school such as Law Review, Woolsack, Moot Court, Student Bar, Fraternities and Legal Aid which will give him a taste of the practice of law and also round out his professional education. Most of these activities have been added to the law school since 1960. "University of San Diego is a 'young' law school - as law schools reckon - age - but in the years I have watched it grow it has progressed in a truly remarkable way. A sure indication of this, it seems to me, is the growing number of its graduates who are successful in the profession both here and elsewhere. Much remains to be done, of course, but with cooperation between a dedicated dean and faculty and an enthusiastic student body, backed by the encouragement and support of the University, I believe that the best years still lie ahead."

If you haven't yet met the "chancellor," stop by his office any time, he will be happy to chat or to listen to your problems.



Professor Brock

## ALUMNI NEWS

(Continued from Page 3)

merce and Chairman of the Legislation Committee. He is an associate with McCormick, Moock, & McCormick of Visalia working in the Lindsay branch office, P.O. Box 280 South Mirage, Lindsay.

Going North to LOS ANGELES we grope through the smog and find

## JERRY LEAVITT

a law clerk with Richard Lorne Davis located at 5020 Sunset Boulevard. His advice to seniors is "Start studying for the Bar, it's none too early". By way of dicta he says he enjoyed the USC-Texas game.

## EUGENE A. BOMLIU

an associate with Harney, Ford, & Schlottman, located at 650 South Grand Avenue.

## RONALD L. COHEN

(Past editor of the Woolsack) who is with the U.S. Treasury Department and is working as an assistant in trusts.

Flying down one of L.A.'s many freeways (which makes it the only city I know of with a clearly defined death wish) we come to LONG BEACH and

## VERN SCHOLEY

who was recently admitted to the Patent Bar. He is now a patent attorney with Fulwider, Patton, Rieber, Lee & Utecht, 529 Edison Building, 100 Long Beach Blvd.

## PETER R. PALERMO

an associate with Parker, Berg, Lord, & Soldwedel; 723 Security Building, in Pasadena. He was Speaker at the Pasadena Chapter of CPA's and Chairman of the Pasadena Law Day Luncheon. He is Secretary of Pasadena Junior Bar-risters for 1967.

## DONALD N. FELD

an investigator for the San Bernardino County District Attorney.

There is surely a lot of work being done here in California. To get away from it all I'm going to LAS VEGAS (where I can relax) NEVADA, where I would be very likely to hear about

## DR. FREDERICK L. HETTER II

a partner with the firm of Chapman & Hetter, 1924 Adams Ave., San Diego. He is also Assistant Professor of Political Science, Nevada Southern University; Member, The Law Committee, Nevada Southern University; Director, Law Enforcement Seminar, Las Vegas; Director, University Public Defender Project, Las Vegas. He stopped to rest once, Winter of '56, or was it '57.

What was relaxation? I need to get further away, maybe PHOENIX, ARIZONA. It wouldn't take me long to find that move was a mistake because

## MANFRED R. WETZEL

after serving as Chief Legal Officer SPD, USAARMC, Ft Knox, Kentucky from 1965-1966 has just opened a new law office and one branch office at 2320 E. Indian School Road, Phoenix.

Things could change and he might find himself in SAIGON, VIETNAM with

## WALTER E. BLAYTON

Financial Administrator for Philco-Ford Corporation, RMK-BRJ, in Saigon.

(Editor's Note: More alumni will be featured in future issues.

## REFLECTIONS

(Continued from Page 2)

sisted it could later be more fruitfully discussed by students more adequately prepared to analyze the issues involved. To maintain interest outside of class it would be best if some questions were left for outside evaluation and some hypothetical problems were left to be answered at the next class session. To put it in economic terms, we pay for lectures that inform and stimulate us, we can listen to each other talk anytime.

Mr. Kerig has an effective method for teaching evidence and he generally follows this format:

1. Make the point
2. Give the historical background (as applicable)
3. Its application in California and elsewhere
4. Its beneficial effect
5. Its detrimental effect
6. Constructive criticism

By asking questions and giving hypothetical problems he obtains class participation and limits it to valuable information. He uses the text for reference but doesn't dwell on points that should be known if the case were read, thereby omitting useless repetition. He refers to outside references and keeps up to date; (now if we could only get him to save the *New York Times* for us.) Each course and each instructor requires a different system to be most effective and this method may not be applicable in every course but it certainly has great merit.

## DRAFT REVISION

(Continued from Page 1)

graduate work. Furthermore, any student receiving a 2S classification after July 4, 1967 will not be eligible for a 3A classification (exemption because of family dependents), and law students are no longer eligible for I-SC classification

## Local Discretion Continued

These local draft boards will have unrestricted discretion in drafting even currently enrolled law students in good standing.

The full impact of the new Selective Service law will be felt next year when the

only law students protected from the draft will be third-year men. The law student who has not fulfilled his service obligation will be in a precarious situation.

The study of law is very much in the nation's interest! The legal profession has trained many leaders with the critical capacity necessary to make sound decisions. Therefore, it would seem that the policy of deferring law students should be reinstated. Is the capacity and training necessary to interpret the fundamental law of our nation less critical than dental work?

## EXAMS

(Continued from Page 1)

will also attempt to schedule exams in such a way that everyone will have at least one exam every evening.

Under this system there will be no attempt to stagger examinations - they will be given on consecutive days. First year students will have consecutive examinations, one each day, until completed.

Like any other new system I am sure we will run into some problems. I sincerely hope that the students will

make every effort to cooperate in trying to solve these problems. I welcome constructive suggestions that will help eliminate these problems. I wish to remind the students that this system was devised for their benefit and not for the self-gratification of the faculty or administration.

\*-Upperclassmen who have to take or retake an examination in a given first year subject will be advised in advance by Dean Alsap when the examination will be scheduled for them.

## Bully's

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## Alumni Meeting

DEC. 7

6:00 P.M.

Moore Hall

(election of officers)



## —FOOTBALL REVIEW—

"J.D.'s and LAW SCHOOL #1 Doing Well,  
COORS and THEM OTHER PLUCKERS Need Help."

by HARVEY NEIMAN

While most of the Catholic community attends Mass on an autumn Sunday morning in San Diego, there are a few who can be heard yelling: "You lousy ref, he tackled me and you didn't even call a penalty," or, "Hey, don't let that guy get behind you; he'll be gone for a TD if you do!" If one were to take a close look to see who the author of these screams were, he would very likely find a USD law student involved in a heated game of intramural flag football. One would be ill-advised to try to curb the tongue of this future lawyer, because he surely possesses the added enthusiasm and energy to back up his statements with physical force. "You grab me like that one more time fella, and you'll need POLY GRIP to chew apples."

Indeed, those who thought USD law school was engulfed by a cloud of student apathy last spring can expect to find strong contradictory opinions from close to fifty law student participants in the intramural program. Likewise, an equal number of their classmates, wives and girlfriends would agree with them.

The intramural football season, sponsored by the USD College for Men, is past the mid-season mark and in high gear, with four of the seven league games having been played as of October 29th. There are two leagues of eight teams each, with representation from the undergraduate school, the graduate school, the seminary, and the law school.

The law school is contributing four teams to the program. The JD's, composed of mostly second year men, and Coors, a third year team, compete in the Matador league. Law School #1, with players from both the second and third year, and Them Other Pluckers, the first year's team, play in the tough Torero league.

### TEAM CAPTAINS

Of these four teams, two have fared well, and two need help. The JD's, led by captain-quarterback Worth Vogel, are undefeated and tied in four starts. They are tied for first place in their league. Law School #1, under captain Bob Goss, a former letterman at San Jose State, has suffered only one defeat and is still in contention for the lead in their league. At present, they are in a three way tie for second place. Coors, captained by Dan Ornelas, have only one victory to their record, but have still managed to stay out of the Matador league cellar. Them Other Pluckers, led by captain Dave DeVore, have yet to score on an opponent, although they draw a lot of blood while they maintain a firm grip on last place in the Torero league.

A closer look at the progress of the first year team may shed some light on why they are still looking for their first win. Their biggest problem is the score. They have lost to the Old Timers (grad students), 49-0, to the Brotherhood (seminarian), 55-0, to Los Hombres (CM independents), 2-0, and to ADG#2 (CM fraternity), 19-0.

They still lack in team preparation, which is obvious when fans from the sidelines can see the quarterback in the huddle drawing diagrams in the ground with his finger.

### COORS IS BAD?

The problems confronting the Coors are similar, even though this team is composed of third year students, many of whom played together last year. They started this season with a burst of strength, by defeating the Soul Brothers (seminarians), 12-0. But it has been all down hill since then. They lost by forfeit to the JD's, failing to produce a minimum of seven men on the playing field; they lost to the Sherwood Forest Avengers (CM independents), 19-0; and to Phi Kappa Theta (CM fraternity), 51-0. Nevertheless,

It should not be misunderstood, Coors has a strong core of fine players who do a good job and have fun. Most of the players place great value in the chance to compete each week. Brian Michaels expresses a popular view when he gives an old theme a fresh twist. "Psychotherapeutically speaking, I find the thing extremely enjoyable from a psychotherapeutic point of view. It gives me a chance to take out a lot of tension that builds up in the classroom during the week. If for no other reason that's why I get out there to play. Especially in the third year, with all the detail in our courses, emotions and anger build up. These contact sports are a great form of therapy for the students." Further, the team as a whole has gone all out during the games. Bob Struble has done a fine job at quarterback. John Barfield, Chuck McCutcheon, Tom Wood, and Brian Michaels have given their best at blocking and rushing. John Obenauer and Don Ryan have been outstanding as the halfbacks, both offensively and defensively.

The makings of a winning team is clearly evident in this group. Says Bruce Yurman, an asset at offensive end and defensive safety, "Everyone puts out his best, even though only seven or eight show up each game. If we could develop a workable series of offensive plays, and if we only had better size for our pass rush and blocking, we would do much better." Right!

### L. S. # 1

Where the Pluckers and the Coors have suffered (sic) defeat, Law School #1 can boast a fine record and the greatest number of earned wins among the law school teams. They have beaten ADG #2, 15-0, the Square Root of Two (CM independents), 26-6, and Tau Kappa Epsilon (CM fraternity), 29-0. They lost only

### THEM OTHER PLUCKERS



### THE J.D.'s



### LAW SCHOOL #1

## Sports News

The director of athletics for the Student Bar, Ron Fein, announces that there is a full athletic program planned for all interested law students this fall. The intramural football program is well under way. Tentatively, plans call for an all-star, post season, football game against Cal Western law school for a keg. A method for picking our all-star team will be determined later.

### Tennis Tourney

Next on the agenda is the student-faculty Tennis Tournament, also sponsored by the Student Bar Association. As of this writing, the first two rounds of the single elimination tournament have been played by the participants on their own time. Those who have signed up should consult the bulletin board to find out their pairings and deadlines. The last two rounds of the tournament will be regularly scheduled, at a time and place to be announced on the bulletin board. Trophies will be awarded to the victors.

Fein has also informed us that block tickets to a San Diego Gulls Hockey game at the Sports Arena are being arranged for some evening in December. The date has not been set, but all students and faculty are urged to sign up for themselves and their wives or dates. The tentative goal: 50 couples. If the goal is reached the rates will be cheaper, and we will even have enough money to provide a keg of beer right there at the game." Sounds like fun. Sign up.

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